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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL ANTHONY
GONZALEZ,

Defendant and Appellant.

B272035

(Los Angeles County
Super. Ct. No. SA 090139)

APPEAL from an order of the Superior Court for the
County of Los Angeles. Kathryn Solorzano, Judge. Affirmed.

Andrea S. Bitar, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

This is an appeal from an order issued March 17, 2016, at a sentence and probation hearing for defendant Michael Anthony Gonzalez. The court ordered defendant's probation revoked and reinstated, and ordered him to complete 365 days in a residential drug treatment program. The events leading up to the March 17 order were these.

After a preliminary hearing, defendant was charged by information with attempted first degree burglary with a person present, in violation of Penal Code sections 664 and 459, a felony.

On May 18, 2015, the court permitted amendment of the information to charge a violation of Penal Code section 459, a felony, as count two. With the court's approval, defendant pled nolo contendere to count two, after waiving his constitutional rights to jury trial, confrontation and cross-examination of witnesses, to subpoena witnesses for his defense, and the right against self-incrimination, and after being advised of the nature of the charges and the consequences of a plea. Defendant was convicted on count two and the court found the offense to be in the second degree.

Also on May 18, 2015, the imposition of sentence was suspended and defendant was placed on formal probation for 36 months. The terms and conditions included 85 days of credit for 43 days in actual custody and 42 days of good time/work time; a \$40 court operations assessment; a \$30 criminal conviction assessment; a \$300 restitution fine; and a \$300 probation revocation restitution fine (effective upon revocation). Defendant was sentenced to 365 days in a residential treatment facility, subjected to a lifetime firearm prohibition, and ordered to submit

to periodic controlled substance testing when requested by his probation officer. Count one of the information was dismissed.

On December 7, 2015, defendant's probation was revoked and a bench warrant was issued. The deputy public defender appeared for defendant and stated that defendant "suffered multiple arrest, transient, and not reporting."

On December 10, 2015, defendant appeared with his attorney and the bench warrant was recalled. The court remanded defendant to custody and ordered a supplemental probation report.

On January 27, 2016, the defendant waived his right to a formal hearing and admitted he violated his probation "for failure to complete the drug program and to report to the probation officer and to test." The court revoked defendant's probation, then reinstated it with modifications, ordering defendant to serve 149 days in Los Angeles county jail (time served consisting of 75 days actual plus 74 good time/work time); complete 365 days in a drug program; and test regularly through the probation department.

On February 25, 2016, defendant's probation was revoked again. He had been released for transport to a residential program in Long Beach, but left the transport vehicle, stating he had left his telephone at the jail, had to retrieve it, and would "get himself to the program on his own"

On March 14, 2016, at a bench warrant hearing, defendant was advised of and waived his right to a revocation hearing; admitted to violation of probation; and waived his right to credits on any future violations.

On March 17, 2016, defendant was again conditionally released for transport to the residential treatment center in Long

Beach (“the same one he didn’t go to in the first place”). The court said: “This is your last shot, Mr. Gonzalez. You’ve got to make it work. . . . [¶] . . . [¶] So at this point, probation is reinstated on the same terms and conditions,” with defendant ordered to report to his probation officer within a week of his arrival. The court also stated there were “no credits actually at this juncture,” because defendant previously indicated “that you would waive all of your credits on the future violation, and that included actually not getting credits today.”

On May 4, 2016, defendant filed a notice of appeal from the March 17, 2016 order.

Defendant’s appointed counsel filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436) requesting our independent review of the record. A declaration from counsel states that she wrote to defendant on September 14, 2016, at the most current address she then had for him, explaining her evaluation of the record and her intention to file a *Wende* brief; informed him of his right to file a supplemental brief; and sent him the transcripts of the record on appeal. Counsel wrote to defendant again on October 5, 2016, at his most current address as of that date, and sent him a copy of the *Wende* brief. No supplemental brief has been filed.

We have reviewed the record on appeal. The record shows no error by the trial court.

In short, we are satisfied that defendant’s appointed counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The trial court's order is affirmed.

GRIMES, J.

WE CONCUR:

RUBIN, Acting P.J.

FLIER, J.